



Revenue Interim Committee

67th Montana Legislature

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TO: Committee Members
FROM: Jaret Coles, Staff Attorney
RE: Administrative Rule Activity
DATE: September 9, 2022

Department of Revenue

Proposal and Adoption Notices are available on the Internet:

Department of Revenue notices can be found on the Secretary of State's website at <http://www.mtrules.org>. Under the Montana Administrative Register heading, type the number "42" in the "Search by Notice No." box and click on the "Go" icon.

Notice of Proposed Rule:

Individual Income Taxation -- Montana Education Savings Plans (529 plans) -- [House Bill No. 129 \(2021\)](#), [MAR 42-1061](#). A public hearing was held on August 26, 2022, and the public comment period ended on September 6, 2022. The Department proposes to amend two rules and repeal one rule regarding 529 plans. Both proposed amendments implement items that were directly provided for in [House Bill No. 129](#), including the requirement that an account be held for at least one year and the ability to use account funds for more than just "higher" education costs. The repeal eliminates a redundancy by deleting a rule that simply restated the Montana Code Annotated.

Tax Administration -- Extension of Deadlines for a Taxpayer to Appeal an Audit Determination or a Final Determination. [MAR 42-1057](#). A public hearing was held on August 15, 2022, and the public comment period ended on August 25, 2022. The Department proposes to amend one rule dealing with both informal review and review by the Department's Office of Dispute Resolution (ODR). First, the proposed rule extends the time for a taxpayer to pursue an informal review of an audit determination (also referred to as Notice of Assessment) and an ODR review of final determination (also referred to as Notice of Determination) from 30 days to 45 days for each notice. Second, the proposed rule expands the time for a nonresponsive taxpayer to make a payment from 30 days to 45 days. Lastly, the proposed rule provides that if the Department does not issue a final determination as part of informal review within 45 days of receiving a taxpayer's objection to the audit determination, an appeal to ODR is "deemed granted", as opposed to requiring the taxpayer to pursue and appeal with ODR.

Staff Comment: Section [15-1-702](#), MCA, provides that the Department may issue a warrant for distraint unless payment is received within 30 days of the notice seeking payment. Consequently, the proposed rule provides 15 more days for a taxpayer to comply than required by statute.

Income Taxation -- Multistate Tax Commission's Model Statute for Reporting Adjustments to Federal Taxable Income and Federal Partnership Audit Adjustments -- [House Bill No. 53 \(2021\)](#), [MAR 42-1056](#). A public hearing was held on August 15, 2022, and the public comment period ended on August 22, 2022. The Department proposes to amend two rules to implement [House Bill No. 53](#), which standardized reporting adjustments to federal taxable income and partnership audit adjustments while also allowing a partnership to pay state adjustments to federal changes at the partnership level instead of the partner level. The amendments implement the new reporting requirements while making minor text edits.

Property Taxation -- Tribal Government Applications for Temporary Property Tax Exemptions -- [Senate Bill No. 214 \(2021\)](#), [MAR 42-1055](#). A public hearing was held on August 26, 2022, and the public comment period ended on September 6, 2022. The Department proposes to amend one rule to implement [Senate Bill No. 214](#), which requires the Department to notify an impacted county when a temporary property tax exemption of property is in application status for conversion to tribal trust property. [Senate Bill No. 214](#) also added a tax recapture provision for applications that have been denied trust status or have taken longer than five years for the federal government to process. In addition to implementing the legislation, the proposal eliminates internal redundancies to the Montana Code Annotated and adds a requirement that a tribe submit a document to the Department from the United States Department of Interior Bureau of Indian Affairs stating the request for trust application was submitted prior to January 1 of the year for which the exemption is sought.

Property Taxes -- Property Tax Exemption Process Revisions. [MAR 42-1054](#). A public hearing was held on August 15, 2022, and the public comment period ended on August 22, 2022. The Department proposes to adopt one rule and amend one rule regarding governmental, charitable, and educational categories of tax-exempt property. The proposed amendments incorporate the statutory exemptions that are subject to the requirements of the exemption application process and provide a description of the process itself. The proposed new rule focuses on the application process.

Adopted/Amended Rules:

None.